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In re Application of
Calistri-Yeh, et al.
Application No. 10/823,617
Filed: April 14, 2004
Attorney Docket No. 055653-0016

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed February 20, 2008 and supplemented on February 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to properly reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 27, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Applicants filed a RCE and an IDS on September 27, 2007. The RCE lacked a proper submission. Accordingly, the application became abandoned on September 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of an amendment as the submission for the previously filed improper RCE; (2) the petition fee of \$ 510.00; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

Even though the application was abandoned, a non-final Office action was mailed on November 9, 2007. This decision reviving the above-identified application closes the gap in prosecution that occurred when the November 9, 2007 non-final Office action was issued while the application was abandoned and covers the subsequent delay in applicants' response to the November 9, 2007 non-final Office action. Per the February 21, 2008 supplemental response, applicants wish for the February 20, 2008 amendment to be considered as the reply to the November 9, 2007 non-final Office action.

This application is being referred to Technology Center AU 2164 for consideration of the amendment filed on February 20, 2008 as the reply to the November 9, 2007 non-final Office action.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

A handwritten signature in black ink, reading "Shirene Willis Brantley". The signature is written in a cursive, flowing style.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions